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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SOON-RYONG PARK, WOO-SUK JUNG, HEE-CHUL JEON, EUN-AH KIM, HEE-SEONG JEONG, NOH-MIN KWAK, CHUL-WOO JEONG, and JOO-HWA LEE

Appeal 2014-000604
Application 12/654,362
Technology Center 2600

Before ST. JOHN COURTENAY III, CARLA M. KRIVAK, and MICHAEL J. STRAUSS, *Administrative Patent Judges*.

KRIVAK, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

Appellants filed a Request for Rehearing under 37 C.F.R. § 41.52 on July 11, 2016 ("Request"), requesting we reconsider our Decision on Appeal of February 24, 2016 ("Decision").[1] In our Decision, we affirmed the

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[1] Appellants' Request was originally filed April 27, 2016, but was not entered in the system resulting in a Notice of Abandonment (May 2, 2016). Appellants filed a Petition for Review on July 11, 2016, along with the Request for Rehearing and evidence indicating the Request was timely filed. The Examiner reinstated the application on December 23, 2016.

Examiner's rejection of claims 1–18 under 35 U.S.C. § 103(a) as obvious over the combination of Cok and Luthern, the main references.

We reconsider our Decision in light of Appellants' arguments in the Request, but we decline to change the Decision. We are not persuaded we misapprehended or overlooked the points argued by Appellants in rendering our Decision.

For convenience, independent claim 1 is reproduced below.

> 1. An organic light emitting diode (OLED) display device, comprising:
>
> a substrate having a display region where OLEDs are formed; and
>
> an encapsulation member fixed onto the substrate and at least covering the display region, the encapsulation member comprising a photochromic material, extending continuously across at least the display region, and the encapsulation member colored by external light.

Appellants argue in their Request: a) the proposed combination of references are not taken as a whole as nowhere does the proposed combination use the words (nouns) "OLED," "photochromic material," or "encapsulation member fixed onto a substrate" in a single paragraph (Request 4); b) the Board misapprehended the teachings of the proposed combination of references, and thus "erroneously overlooked the absence of a *prima facie* showing of obviousness *vel non*" (Request 4–5); c) the Board erroneously read the Administrative record as there is no evidence someone "has taken Cok's photochromic material and fabricated an encapsulating member" because there is no recognition the thickness and presence of a brightness regulating fill between the substrate and reflecting sheet might be eliminated (Request 5–6); d) the Examiner's Answer suggests inherency

(Request 6–7); and e) independent claim 17 was not addressed (Request 7–8).

We first note there is no requirement all elements of a claim be found in a single paragraph as Appellants contend. Further, the Examiner relied on Cok for disclosing an encapsulation member on a substrate and Luthern for disclosing the encapsulation member contains a photometric material (Luthern ¶ 22 "The encapsulation of the photochromic material in a suitable polymeric substrate involves the incorporation of the photochromic material . . ."") (*see* Decision 4). Appellants point out in the Appeal Brief that the encapsulation member is a second substrate 22 (App. Br. 7, FNs 6, 7 "For example, the photochromic material ix [sic] mixed with glass during a manufacturing process of second substrate 22 and uniformly dispersed inside second substrate 22"; Spec. ¶ 42). Thus, Appellants contention that Luthern does not disclose the structure of an encapsulating member formed on a substrate, but rather, discloses an "'***entrainment*** of the photochromic material in a suitable polymeric substrate'" but not in a diode, is unpersuasive (Request 4).[2] Appellants are arguing the references separately and not as a combination.

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[2] Entrainment
1. "*Chemistry*. (of a substance, as a vapor) to carry along (a dissimilar substance, as drops of liquid) during a given process, as evaporation or distillation." http://www.dictionary.com/browse/entrainment, last visited Jan. 3, 2017.
2. Engineering: entrapment of one substance by another substance. (*Perry, R.H. and Green, D.W. (eds.) Perry's Chemical Engineers' Handbook(Sixth ed.)McGraw Hill(1984).*
*ISBN 0070494797*https://en.wikipedia.org/wiki/Entrainment_(engineering)

Appellants' assertion our Decision lacks merit is also unpersuasive as it ignores the teachings of Cok's disclosure of an encapsulation member and Luthern's teaching of a substrate being formed of photochromic material. The Board did not misapprehend the teachings of the references. As to the Examiner not providing evidence of inherency, we note Cok discloses, although still present, the encapsulating layer shown in Figure 2 is not shown in the other drawings (*see, e.g.*, Cok ¶ 26) and the Examiner provides sufficient reasoning in the Answer (Ans. 25–26), which Appellants did not address in the Reply Brief but, rather, raised belatedly for the first time in this Request. *See* 37 C.F.R. § 41.52(a)(1).

Appellants address claim 17 in their Appeal Brief arguing "Faler '099 merely teaches a glass substrate including a photosensitive article and provides no indication that such a glass substrate would have been used to encapsulation [sic] OLED display devices" (App. Br. 34). Appellants then assert the rejection of claim 17 cannot be sustained for reasons similar to the arguments presented with respect to Cok (and Luthern) (claims 1 and 15) (*id.*). No additional substantive arguments are provided. The Examiner's Answer sets forth reasonable findings regarding the obviousness of claim 17 over the combination of Cok and Faler (Ans. 8–10). Appellants did not address these arguments in the Reply Brief. Thus, we relied on the Examiner's reasoning set forth in claims 1 and 15, as did Appellants.

For these reasons we find no error in our Decision of February 24, 2016, warranting a change in the outcome.

DECISION

We grant Appellants' Request for Rehearing to the extent we have reconsidered our Decision, but we deny the Request with respect to making any changes thereto.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

DENIED